

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



FILED

01-22-07

03:22 PM

Order Instituting Rulemaking to Promote
Policy and Program Coordination and
Integration in Electric Utility Resource
Planning.

Rulemaking 04-04-003
(Filed April 1, 2004)

**RESPONSE OF MERCED IRRIGATION DISTRICT
AND MODESTO IRRIGATION DISTRICT
TO PETITION FOR MODIFICATION OF D.04-12-048
OF THE ENERGY PRODUCERS AND USERS COALITION**

Ann L. Trowbridge
DAY CARTER & MURPHY LLP
3620 American River Drive, Suite 205
Sacramento, California 95864
Telephone: (916) 570-2500, ext. 103
FAX: (916) 570-2525
E-mail: atrowbridge@daycartermurphy.com
**Attorneys for Merced Irrigation District
and Modesto Irrigation District**

January 22, 2007

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Promote
Policy and Program Coordination and
Integration in Electric Utility Resource
Planning.

Rulemaking 04-04-003
(Filed April 1, 2004)

**RESPONSE OF MERCED IRRIGATION DISTRICT
AND MODESTO IRRIGATION DISTRICT
TO PETITION FOR MODIFICATION OF D.04-12-048
OF THE ENERGY PRODUCERS AND USERS COALITION**

Pursuant to Rule 16.4 of the Rules of Practice and Procedure of the California Public Utilities Commission (Commission or CPUC), Merced Irrigation District (Merced ID) and Modesto Irrigation District (Modesto ID, collectively the Districts) file this Response to the Petition for Modification of D.04-12-048 of the Energy Producers and Users Coalition (EPUC) (Petition).

Merced ID and Modesto ID are publicly owned utilities (POUs) located in PG&E's service territory in northern California. Both Districts are customers of PG&E and competitors in the provision of electric services to customers in California's central valley, and as such have an interest in matters that could affect the Districts' or their customers' charges for electric service, including potential implementation of a Procurement NBC (defined below).

With the Petition, EPUC seeks modification of D.04-12-048 and all other procurement decisions purporting to implement certain nonbypassable charge (NBC) policies adopted in D.04-12-048 and applicable to customer generation departing load (CGDL).¹ Specifically, EPUC asks the Commission to (1) confirm the investor owned utilities' (IOUs) obligation to forecast CGDL when procuring power, and (2) rule that CGDL is not subject to an NBC

¹

The other decisions include D.03-12-059 (SCE acquisition of Mountainview); D.04-06-011 (approving SDG&E's Reliability RFP); D.06-06-035 (approving Joint Settlement Agreement, as modified, for PG&E's acquisition of Contra Costa 8); D.06-07-029 (approving Procurement NBC for net capacity costs associated with power purchase agreements for PG&E and SCE) and D.06-11-048 (approving PG&E Long Term Request for Offer Results). The Districts timely filed an Application for Rehearing of D.06-07-029 on August 21, 2006.

resulting from the IOUs' ongoing procurement activities in the normal course of business (a Procurement NBC).

The Districts support EPUC's Petition.² EPUC is correct that "[a] reasonable course of action under the circumstances would be to eliminate the Procurement NBC entirely." The Procurement NBC is not related to electric industry restructuring or the energy crisis. Rather, the Procurement NBC is an IOU mechanism the Commission has authorized that in effect absolves the IOUs from imprudent procurement activities.

Historically, the Commission has not authorized an NBC in connection with IOU procurement in the normal course of business. The IOUs are sophisticated, experienced electric service providers that are able to forecast changes in their customer load and make appropriate plans to serve only that load. They have for decades been responsible for prudent procurement planning. The IOUs are not charged with ensuring customers of entities other than the IOUs have an adequate supply of power and should not be procuring resources to serve those customers, particularly in the face of reasonable forecasts of departing load. There simply is no basis now for the Commission to authorize a Procurement NBC in connection with IOU procurement in the normal course of business.

Merced ID and Modesto ID encourage the Commission to grant EPUC's Petition and (1) confirm the IOUs' obligation to forecast CGDL when procuring power, and (2) rule that CGDL is not subject to a Procurement NBC. Merced ID and Modesto ID believe similar policy considerations apply in the context of potential imposition of a Procurement NBC on municipal departing load and plan to separately pursue municipal departing load Procurement NBC issues.

DATED: January 22, 2007

DAY CARTER & MURPHY LLP

By: /s/ Ann L. Trowbridge

² The Districts' Response focuses on policy issues relating to the need for a Procurement NBC in the first instance, and does not address the cogeneration policy issues raised in EPUC's Petition.

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the **RESPONSE OF MERCED IRRIGATION DISTRICT AND MODESTO IRRIGATION DISTRICT TO PETITION FOR MODIFICATION OF D.04-12-048 OF THE ENERGY PRODUCERS AND USERS COALITION** on January 22, 2007, on all known parties to proceeding R.04-04-003 via electronic mail to those whose addresses are available and via U.S. mail to those who do not have an electronic address.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated this 22nd day of January, 2007, at Sacramento, California.

/s/ Christine J. Lambos
CHRISTINE J. LAMBOS

VIA ELECTRONIC MAIL:

adrian.pye@na.centrica.com; rick_noger@praxair.com; kmccrea@sabl原因.com;
roger@berlinerlawpllc.com; lisa.decker@constellation.com; garson_knapp@fpl.com;
jimross@r-c-s-inc.com; toms@i-cpg.com; pseby@mckennalong.com; todil@mckennalong.com;
doug.larson@pacifcorp.com; stacy.aguayo@apses.com; rsnichol@srpnet.com;
msimmons@sierrapacific.com; lurick@sempra.com; dmahmud@mwdh2o.com;
hchoy@isd.co.la.ca.us; nwhang@manatt.com; mmazur@3phases.com; mcmannes@aol.com;
klatt@energyattorney.com; maureen@lennonassociates.com; bdelamer@capstonturbine.com;
douglass@energyattorney.com; allwazeready@aol.com; annette.gilliam@sce.com;
berj.parseghian@sce.com; beth.fox@sce.com; case.admin@sce.com; woodrujb@sce.com;
michael.backstrom@sce.com; rkmoore@gswater.com; ehull@ci.chula-vista.ca.us;
daking@sempra.com; dgarber@sempra.com; fortlieb@sandiego.gov; gbaker@sempra.com;
KMelville@sempra.com; troberts@sempra.com; mshames@ucan.org;
bpowers@powersengineering.com; Bill.Lyons@shell.com; jkloberdanz@semprautilities.com;
tdarton@pilotpowergroup.com; wkeilani@semprautilities.com; wkeilani@semprautilities.com;
lschavrien@semprautilities.com; jennifer.holmes@itron.com; jleslie@luce.com;
aweller@sel.com; cneedham@edisonmission.com; llund@commerceenergy.com;
ibbarrett@adelphia.net; george.hanson@ci.corona.ca.us; chris@emeter.com;
mdjoseph@adamsbroadwell.com; jeanne.sole@sfgov.org; joe.como@sfgov.org;
mflorio@turn.org; armi@smwlaw.com; ayk@cpuc.ca.gov; chh@cpuc.ca.gov; edd@cpuc.ca.gov;
fjs@cpuc.ca.gov; kpp@cpuc.ca.gov; filings@a-klaw.com; rsa@a-klaw.com; scarter@nrdc.org;
evk1@pge.com; jlkm@pge.com; mrh2@pge.com; agrimaldi@mckennalong.com;
bcragg@gmssr.com; jsqueri@gmssr.com; jarmstrong@gmssr.com; jkarp@winston.com;
lcottle@winston.com; chrishilen@dwt.com; edwardoneill@dwt.com; jeffgray@dwt.com;
stevegreenwald@dwt.com; alhj@pge.com; ssmyers@att.net; l_brown369@yahoo.com;

mecssoft@pacbell.net; bkc7@pge.com; kowalewskia@calpine.com; sherifl@calpine.com;
wbooth@booth-law.com; bill.chen@constellation.com; eric@strategyi.com;
ramonag@ebmud.com; hoerner@redefiningprogress.org; rschmidt@bartlewells.com;
elarsen@rcmdigesters.com; gmmorris@emf.net; jgalloway@ucsusa.org;
clyde.murley@comcast.net; nrader@calwea.org; tomb@crossborderenergy.com;
pcmcdonnell@earthlink.net; michaelboyd@sbcglobal.net; jbradley@svlg.net;
bmcc@mccarthylaw.com; sberlin@mccarthylaw.com; joyw@mid.org; chrism@mid.org;
sarveybob@aol.com; dkates@sonic.net; brbarkovich@earthlink.net;
johnrredding@earthlink.net; jweil@aglet.org; gabriellilaw@sbcglobal.net; puma@davis.com;
hydro@davis.com; grosenblum@caiso.com; sford@caiso.com; jjensen@kirkwood.com;
matt@bradylawus.com; abb@eslawfirm.com; dcarroll@downeybrand.com;
dkk@eslawfirm.com; glw@eslawfirm.com; lmh@eslawfirm.com; rliebert@cfbf.com;
notice@psrec.coop; mpa@a-klaw.com; dws@r-c-s-inc.com; carlo.zorzoli@enel.it;
dhecht@sempratrading.com; aweller@sel.com; sdavis@ccap.org; jbwilliams@mwe.com;
myuffee@mwe.com; porter@exeterassociates.com; eyussman@knowledgeinenergy.com;
ralph.dennis@constellation.com; dmcfarlan@mwgen.com; brianhaney@useconsulting.com;
ghinners@reliant.com; michael.crumley@elpaso.com; william.tomlinson@elpaso.com;
david.saul@solel.com; ckmitche11@sbcglobal.net; rprince@semprautilities.com;
dhuard@manatt.com; pucservice@manatt.com; curtis.kebler@gs.com;
sam@climateregistry.org; npedersen@hanmor.com; cmlong@earthlink.net;
mgibbs@icfconsulting.com; roger.pelote@williams.com; frank.cooley@sce.com;
laura.genao@sce.com; dwood8@cox.net; tim.hemig@nrgenergy.com;
aabed@navigantconsulting.com; kmelville@sempra.com; rru@sandag.org;
gbass@semprasolutions.com; tcorr@sempraglobal.com; liddell@energyattorney.com;
ygross@sempraglobal.com; scottanders@sandiego.edu; centralfiles@semprautilities.com;
irene.stillings@sdenergy.org; jennifer.porter@sdenergy.org; jkloberdanz@semprautilities.com;
kmorton@sempra.com; mschmidt@semprautilities.com; susan.freedman@sdenergy.org;
dpapapostolou@semprautilities.com; kjk@kjkammerer.com; kmkiener@iid.com;
lkostrzewa@edisonmission.com; pherrington@edisonmission.com; ctoca@utility-savings.com;
jskillman@prodigy.net; rhoffman@anaheim.net; jmcarthur@elkhills.com;
lcsentini@rsgrp.com; diane_fellman@fpl.com; freedman@turn.org; nao@cpuc.ca.gov;
ddowers@sfwater.org; mramirez@sfwater.org; scasey@sfwater.org; Dan.adler@calcef.org;
dwang@nrdc.org; nes@a-klaw.com; sdhilton@stoel.com; james.young@att.com;
S1L7@pge.com; taj8@pge.com; cem@newsdata.com; jscancarelli@flk.com; grady.mathai-
jackson@lw.com; lisa_weinzimer@platts.com; cpuccases@pge.com; mdbk@pge.com;
ecrem@ix.netcom.com; ell5@pge.com; gx12@pge.com; karp@pge.com; nbb2@pge.com;
pcg8@pge.com; sscb@pge.com; sv6@pge.com; vjw3@pge.com; k.abreu@sbcglobal.net;
procos@alamedapt.com; brflynn@flynnrci.com; rochmanm@spurr.org; mark_j_smith@fpl.com;
keithwhite@earthlink.net; andy.vanhorn@vhcenergy.com; greg.blue@dynegy.com;
kowalewskia@calpine.com; mona.tierney@constellation.com; philha@astound.net;
sia2@pwrval.com; ceyap@earthlink.net; mrw@mrwassoc.com; dmarcus2@sbcglobal.net;
janice@strategenconsulting.com; craigtyler@comcast.net; elvine@lbl.gov; rhwiser@lbl.gov;
knotsund@berkeley.edu; philm@scdenergy.com; cpechman@powereconomics.com;
kswain@powereconomics.com; janreid@coastecon.com; bill@jbsenergy.com;
demorse@omsoft.com; vwood@smud.org; e-recipient@caiso.com; eleuze@caiso.com;
jgoodin@caiso.com; katherine.gensler@ferc.gov; ppettingill@caiso.com; rsparks@caiso.com;

rsmutny-jones@caiso.com; saeed.farrokhpay@ferc.gov; brian.theaker@williams.com;
mary.lynch@constellation.com; edchang@flynnrci.com; blaising@braunlegal.com;
dgeis@dolphingroup.org; kdw@woodruff-expert-services.com; mlgillette@duke-energy.com;
blaising@braunlegal.com; www@eslawfirm.com; gbrowne@smud.org; hcronin@water.ca.gov;
cabaker906@sbcglobal.net; kmills@cbbf.com; rlauckhart@globalenergy.com;
karen@klindh.com; ntoyama@smud.org; alan.comnes@nrgenergy.com;
mtrexler@climateservices.com; samuel.r.sadler@state.or.us; lscott@landsenergy.com;
jesus.arredondo@nrgenergy.com; bsk@cpuc.ca.gov; cab@cpuc.ca.gov; dsh@cpuc.ca.gov;
djh@cpuc.ca.gov; cpe@cpuc.ca.gov; jef@cpuc.ca.gov; joh@cpuc.ca.gov; jf2@cpuc.ca.gov;
kdg@cpuc.ca.gov; kms@cpuc.ca.gov; kdw@cpuc.ca.gov; kl1@cpuc.ca.gov; lrm@cpuc.ca.gov;
lp1@cpuc.ca.gov; map@cpuc.ca.gov; msw@cpuc.ca.gov; mts@cpuc.ca.gov; ner@cpuc.ca.gov;
nil@cpuc.ca.gov; psd@cpuc.ca.gov; rae@cpuc.ca.gov; gig@cpuc.ca.gov; rls@cpuc.ca.gov;
sjl@cpuc.ca.gov; svn@cpuc.ca.gov; skh@cpuc.ca.gov; sed@cpuc.ca.gov; sst@cpuc.ca.gov;
car@cpuc.ca.gov; scr@cpuc.ca.gov; skg@cpuc.ca.gov; tdp@cpuc.ca.gov; tcx@cpuc.ca.gov;
tbo@cpuc.ca.gov; vjb@cpuc.ca.gov; ztc@cpuc.ca.gov; JMcMahon@navigantconsulting.com;
bfranklin@eob.ca.gov; cleni@energy.state.ca.us; dks@cpuc.ca.gov; kgriffin@energy.state.ca.us;
kris.chisholm@eob.ca.gov; mpryor@energy.state.ca.us; mjaske@energy.state.ca.us;
Mmesseng@energy.state.ca.us; pduvair@energy.state.ca.us; trf@cpuc.ca.gov;
wsm@cpuc.ca.gov; dsandino@water.ca.gov; lwhite@energy.state.ca.us;
fdeleon@energy.state.ca.us; aorchar@smud.org; aulmer@water.ca.gov; jgeorge@water.ca.gov;
jpacheco@water.ca.gov; rwethera@energy.state.ca.us; rmiller@energy.state.ca.us

VIA U.S. MAIL:

SEMPRA ENERGY SOLUTIONS
101 ASH STREET, HQ09
SAN DIEGO, CA 92101

DAVID J. COYLE
ANZA ELECTRIC COOPERATIVE, INC
58470 HIGHWAY 371
PO BOX 391090
ANZA, CA 92539-1909

BP ENERGY COMPANY
501 WESTLAKE PARK BLVD
HOUSTON, TX 77079

QUIET ENERGY
QUIET LLC
3311 VAN ALLEN PL.
TOPANGA, CA 90290

DAVID LA PORTE
NAVIGANT CONSULTING
3100 ZINFANDEL DRIVE, STE 600
RANCHO CORDOVA, CA 95670-6078

PPM ENERGY
1125 N.W. COUCH, SUITE 700
PORTLAND, OR 97209